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STATES DISTRICT COURT WESTERN DISTRICT OF NEW YORK

BUUS & I NAL

ANDRÉ SMITH

DIN* 03A6565

SOUTHPORT CORRECTIONAL FACILITY

P.O. BOX 2000

PINE CITY, NEW YORK 14871

** ORIGINAL COMPLAINT **

ANDRE SMITH, PRO SE

THE FOLLOWING GOVERNOR, COMMISSIONERS CHAIRMAN, SUPERINTENDENT, CORRECTION OFFICER AND HEARING OFFICER, INDIVIDUALLY AND IN DEFENDANTS THEIR OFFICIAL CAPACITIES

CLERK OF THE COURT

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF NEW YORK

2120 U.S. COURTHOUSE

100 STATE STREET

ROCHESTER, NEW YORK 14614

1 GOVERNOR ELIOT SPITZER

2. COMMISSIONER BRIAN FISCHER

3. COMMISSIONER FREDRICK LAMY

4. COMMISSIONER FRANCES SULLIVAN

5. CHAIRMAN DANIEL STEWART

6. SUPERIFTENDENT DAVID NAPOLI

7. CORRECTIONS OFFICER R. McCRACKEN

8. HEARING OFFICER J. ESGROW

enclosed please find for filing in the above entitled case

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MOTION TO PROCEED IN FORMA PAURERIS, PRISON ANTHORIZATION * PAGE

44 CIVIL COUSE SHEET

PARTIES INVOLVED

- * A. PLAINTIFF ANDRÉ SMITH 15 COPFIPED IN THE SOUTHPORT CORRECTIOPAL FACILITY, LOCATED IN PINE CITY, NEW YORK.
- * 1. DEFENDANT GOVERNOR ELIOT SPITZER IS AND WAS AT ALL
 RELEVANT TIMES HEREIN THE GOVERNOR OF THE STATE OF
 NEW YORK, HE IS LOCATED IN ALBANY, NEW YORK.
- LET DEFEDORAT COMMISSIONER BRIAD FISCHER IS AND WAS AT ALL RELEVANT TIMES HEREIN THE COMMISSIONER OF THE NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES, LOCATED IN ALBARY, PEN YORK.
- RELEVANT TIMES HEREIP THE COMMISSIONER OF THE STATE COMMISSION OF CORRECTIONS, LOCATED IN ALBANY, HEN YORK.
- H. DEFERDARY COMMISSIONER FRANCES SULLIVAR IS AND WAS AT ALL RELEVANT TIMES HEREIR THE COMMISSIONER OF THE STATE COMMISSION OF CORRECTIONS, LOCATED IN ALBARY, NEW YORK.
- #5# DEFERBARY CHAIRMAN DANIEL STEWART IS AND WAS AT ALL RELEWANT THES HEREIN THE CHAIRMAN OF THE STATE COMMISSION OF CORRECTIONS, LOCATED IN ALBARY, NEW YORK

- *6. DEFENDANT SUPERINTENDENT DAVID NAPOLI IS AND WAS AT ALL RELEVANT TIMES HEREIN THE SUPERINTENDENT OF THE SOUTHBRY CORRECTIONAL FACILITY, LOCATED IN PINE CITY, NEW YORK.
- * 7. DEFERDANT CORRECTIONS OFFICER R. McCRACKED IS AND WAS

 AT ALL RELEWANT TIMES HEREIN A CORRECTIONS OFFICER AT

 THE SOUTHPORT CORRECTIONAL FACILITY, LOCATED IN PINE CITY,

 NEW YORK.
- * 8#. DEFENDANT HEARING OFFICER J. ESGROW IS AND WAS AT ALL RELEWAPT TIMES HEREIN A HEARING OFFICER AT THE SOUTHPORT CORRECTIONAL FACILITY, LOCATED IN PINE CITY, NEW YORK.
- # 9# THIS ACTION ARISES UPDER AND IS BROUGHT PURSUART TO HE U.S.C & 1983, TO REMEDY THE DEPRIVATION UPDER COUDR OF STATE LAW, OF CONSTITUTIONAL RIGHTS GUARANTEED BY THE 15T, 6TH, 8TH AND 14TH AMENDMENT UPDER THE U.S. CONSTITUTION.
- * 10#. THIS COURT HAS JURISDICTION OVER THIS ACTION PURSUANT TO 28 U.S.C. & 1331.
- # 11. PLAINTIFF CLAIMS FOR INJUNCTION RELIEF ARE AUTHORIZED BY 28. U.S.C. & 2283 AND RULE 65 OF THE FEDERAL RULES OF CHILL PROCEDURE.

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* 12# THIS CAUSE OF ACTION AROSE IN THE WESTERN DISTRICT

THEREFORE, VEHUE IS Proper UPDER 28 U.S.C. & 1391.

PREVIOUS LANSUITS BY PLAIFTIFF

- # 13#. PLAIDTIFF HAS FILED OTHER LAWSUITS DEALIPE WITH AD ACTION RELATIVE TO HIS IMPRISOPMENT.
- * 14# PLAINTRE CURRENTY HAS THREE (3) OTHER LAWSUMS PENDING
 12 THIS COURT, (04 EV 6432) AND (07 EV 6265) AND
 (07 EV 6350).

EXHAUSTION OF ADMIPISTRATIONE REMEDIES

15t. PLAINTIFF EXHAUSTED HIS ADMINISTRATIVE REMEDIES BY FILING GRIEVANCES RELATING TO ALL OF HIS CLAIMS.

STATEMENT OF CLAIM

16th PLAINTIFF REALLEGES AND INCORPORATED BY REFERENCE PARAGRAPHS

At ALL RELEVANT TIMES HEREIP, DEREPORTS WERE "PERSONS"

FOR PURPOSE OF YZ U.S.C. & 1983 AND ACTED UPDER COLOR OF

STATE LAW TO DEPRIVE PLAINTIFF OF HIS CONSTITUTIONAL

RIGHTS, AS SET FORTH MORE FULLY IN THIS STRTEMENT OF

FACTS STATED ON THE PEXT PAGE.

OLL = MONTH

DATED & JAHUARY 11TH ZOOS SOUTHPORT

ANDRE SMITH PIN#: 03A6565

SOUTHPORT COMECTIONAL FACILITY

* STATEMENT OF FACTS * PAGE 5 OF 44

- 1. THE PLAIDTIFF ANDRÉ SMITH HAS A COUSIN WHO IS INCARCERATED IN CALIPATRIA STATE PRISON IN CALIPATRIA , CALIFORNIA.
 - THE PLAIDTIFF'S COUSID'S NAME IS TERRAINE BRADSHAW AND HE IS ALSO A CO-DEFENDANT IN THE PLAIPTIFF'S CALIFORPIA CRIMINAL CASE.
 - THE PLAINTIFF AND HIS COUSIN TERRAINE BRAPSHAW ARE PROCEEDING PROPER IN THEIR CRIMINAL CASE, WHICH MEADS THEY ARE ACTIVE AS THEIR OWN COUNSEL.
 - ON NOVEMBER TM, 2007, THE PLANDTIFF WROTE A LETTER TO THE CALIPATRIA PUBLIC INFORMATION OFFICER MR. R. DID, REQUESTIPE TO KNOW HIS COUSID'S PRISON SEPTENCE, WHICH THE PLAINTIFF HAD THE RIGHT TO DO SIPCE HIS COUSID WAS A CO-DEFERDARY IN THE PLAINTIFF'S CAUFORPIA CRIMIPAL CASE.
 - HOWEVER, THE PLAINTIF'S LETTER WAS INTERCEPTED AND READ BY CALIPATRIA PUBLIC INFORMATION OFFICER SHAWN Mclinn.
 - THE PLAIPTIFF IS AND WAS AT ALL RELEVANT TIMES INCARCERATED IN THE SOUTHPORT CORRECTIONAL FACILITY IP PINE CITY, NEW YORK.

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3 ON NOVEMBER 17TH , 2007, THE PLAINTIFF'S LETTER WAS CENSORED REJECTED AND PHOTOCOPIED BY CALIPATRIA PUBLIC INFORMATION OFFICER SHAWN Melind, AND A PHOTOCOPY OF THE PLANPHFF'S LETTER WAS SENT TO THE DEFENDANTS SOUTHBORT MAILROOM OFFICER R. MCCRACKEN, SOUTHPORT SUPERIDTENDENT DAVID NAPOLI AND NEW YORK STATE DEPARTMENT OF CORRECTIONS COMMISSIONER BRIAN FISCHER, AND GOVERNOR ELIOT SPITZER. DEKENDARTS SOUTHPORT SUPERINTERDEST DAVID NAPOLI AND COMMISSIONER BRIAD FISCHER FAILED TO GIVE, DEFERDADE SOUTHFORT MAILROOM OFFICER R. McCRACKED, EXPLICIT INSTRUCTIONS AS TO THE MINIMUM MAIL CENSORSHIP DUE PROCESS PROCEDURAL SAFEGUARDS TO BE FOLLOWED IN NOTIFYING THE PLAINTIFF THAT HIS LETTER WAS CENSORED AND BEIDG WITHHELD WHICH VIOLATED THE PLAINTIFF'S FIRST AMENDMENT FREEDOM OF SPEECH AND FOURTEENTH AMENDMENT DUE PROCESS RIGHTS AND WAS A SUBSTANTIAL FACTOR IN PRODUCING THE PLAINTIFF'S INJURIES WHICH WAS A TOTAL OF 14 MONTHS IN THE SECURITY HOUSING " UNITS (S.H.U.)

DEFERDADT COMMISSIONER BRIAD FISCHER IMPLEMENTS POLICIES
AND REGULATIONS CONCERING THE TREATMENT OF INMATIES
LOCATED WITHIN THE NEW YORK STATE DEPARTMENT OF
CONTECTIONS, THEREFORE HE IS LIABLE FOR THE INJURIES
THE PLAINTIFF SUSTRIPED, WHICH WAS A TOTAL OF
IY MONTHS IN THE SECURITY HOUSING [NIT (S.HU.)

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5th ON NOVEMBER 20th 2007, THE DEFENDANT SOUTHPORT MAILROOM OFFICER R. McCracken wrote a tier 3 Misbehavior Report Against the Plaintiff Chaiming THAT HE VIOLATED TWO NEW YORK STATE DEPARTMENT OF CORRECTIONS RULES OF CONDUCT. (RUE 1/3.27 AND RULE 180.11)

* Rule 113.27 STATES &

AN INMATE SHALL NOT SOLIEIT, POSSESS OR EXCHANGE ANY DISCIPLIPARY OR GRIEUANDE DOCUMENT PERTAINIPE TO ANOTHER IPMATE, OR ANY DOCUMENT WHICH CONTRINS CRIME AND SENTENCE INFORMATION PERTAINING TO ANOTHER IPMATE WHO IS NOT A CO-DEFERDARY.

RULE 180.11 STATES &

AN INMATE SHALL COMPLY WITH AND FOLLOW
THE GUIDELINES AND INSTRUCTIONS GIVEN BY
STAFF REGARDING FACILITY COMESPONDENCE
PROCEDURES PURSUANT TO REQUIREMENTS OF
DEPARTMENTAL PIRECTIVE NOS 4422 AND 4421.

THER 3 DISCIPLIARY MEARINE, THE DEFENDAT SOUTHERT MAILROM OFFICER R. McCracked notified the Defendat Hearing officer J. ESGROW, THAT NO HUESTICATION WAS EVER CONDUCTED TO DETERMINE IF THE PLAINTIFF AND HIS COUSIN TERRAINE BRADSHAW WERE CO-DEFENDATE, PRIOR TO, AND ALSO AFTER SHE WROTE THE TIER 3 MISECHAULOR PEPORT

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MAILROOM OFFICER R. MCCRACKER FAILED TO PROVIDE THE PLANFTH WITH THE MINIMUM MAIL CERSORSHIP DUE PROCESS PROCEDURAL SAFEGUARDS, BECAUSE SHE FAILED TO NOTIFY THE WITHHELD AND FAILED TO GIVE THE PLANFTHE AND OFFICATIONITY TO CHALLERGE THE CERSORSHIP AND THE WITHHOLDING OF THE VETTER TO THE DEFENDANT SOUTHPORT SUPERIPTEDENT PAVID NAPOLI, PRIOR TO WRITING A TIER 3 MISBEHAVIOR REPORT PLANFTHE, WHICH VIOLATES THE PLANFTHE FIRST AMENDMENT FREEDOM OF SPEECH RIGHT, SIXTH AMENDMENT RIGHT TO COUNSEL RIGHT.

7.

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8. THE DEFENDANT MAILROOM OFFICER R. MECRACKEN FAILED TO NOTIFY THE PLAINTIFF THAT HIS LETTER WAS CENSCRED AND BEING WITHHELD, FAILED TO GIVE THE PLAINTIFF AND OPPORTUDITY TO CHALLENGE THE CENSORSHIP TO THE DEFENDRY SOUTHPORT SUPERINTENDENT DAVID NAPOLI, FAILED TO PROPERLY INVESTIGATE THE SITUATION, FAILED TO INTERVIEW THE PLAINTIFF WITH THE MINIMUM MAIL CENSORSHIP DE PROCESS PROCEPURAL SAFEGUARDS IN RETALIATION FOR THE PLAINTIFF'S PURSUIT OF PRIOR GRIEJAIDCES AND COMPLAINTS AGAINST THE DEFENDANT SOUTHPORT MAILROOM OFFICER R. McCRACKED, WHICH VIOLATES THE PLAIDTIFFS FIRST AMEDOMENT RIGHT UNDER THE U.S. COPSHTUTTON. ON NOVEMBER 1st, 2007, WHICH WAS THO WEEKS BEFORE THE PLAIPTIFF'S LETTER WAS CENSORED BY CALIFORNIA AUTHORITIES, THE PLAINTIFF FILED A GRIEURNEE AND COMPLAINT AGRINST THE DEFENDANT SOUTHBRY MAILROOM OFFICER R. MCCRACKED AND THE SOUTHPORT MAILROOM STAFF AS A WHOLE BASED ON THE FACT THAT THE PLANTIFF WAS PENIED ACCESS TO FAMILY PHOTOS THAT WERE INSIDE OF AN OUERSIZED U.P.S. ENJEWPE THAT WAS SENT TO THE PLAINTIFF ON OCTOBER 31 7 2007. THEIR IS A CAUSAL CONNECTION BETWEEN THE PLAINTIFF'S ROTECTED SPEECH AND THE ADVERSE ACTION TAKEN BY THE DEREPART SOUTHBERT MAILROOM OFFICER

R. McCracked, Which effectively chilled the Byercise of the

CLAINTIFF'S FIRST AMENDMENT RIGHT.

10th THE DEFENDANT SOUTHPORT MAILROOM OFFICER R. McCRACKEN TOOK ADVERSE ACTION AGAINST THE PLAINTIFF, IN RETAURTION FOR THE PLAINTIFF'S PURSUIT OF A GRIEUANCE AGAIPST THE DEFENDANT SCUTHERT MAILROOM OFFICER R. McCRACKED AND THE SOUTHPERT MAILROOM STAFF AS A WHOLE, WHICH PRODUCED THE PLAINTIFF'S INJURIES WHICH WAS A TOTAL OF 14 MONTHS IN THE SECURITY HOUSIDE UNITS (S.H.U.) THE DEFEDORAT SCUTHFORT MAILROOM OFFICER R. MCCRACKEN ADVERSE ACTION OF FAILING TO PROVIDE THE PLAINTIFF WITH THE MINIMUM MAIL CENSORSHIP DUE PROCESS PROCEDURAL SAFEGUARDS IN RETALIATION OF THE PLAINTIF'S PURSUIT OF A GRIENANCE AGAINST HER ADD OTHER MAILROOM STAFF DETERED THE PLAINTIFF AND WOULD DETER A PRISONER OF ORDINARY FIRMNESS FROM VINDICATING HIS OR HER CODSTITUTIONAL RIGHTS THROUGH THE GRIENAPCE PROCESS AND THE COURTS. IT SHOULD BE NOTED THAT, DURING THE PLAINTIF'S TIER 3 DISCIPLIPARY HEARING, THE DEKENDART SOUTHPORT MAILROOM OFFICER R. MCCRACKED NOTIFIED THE DEFENDANT HEARING OFFICER ESGROW, THAT NO HOUSSMEATTON WAS EVER COPNICIED TO DETERMINE IF THE PLAINTIFF AND HIS COUSIN TERRRIPE BRADSHAW WERE CO-DETENDARY, PRIOR TO , AND AFTER SHE WROTE THE TIER 3 MISSEHAUIOR REPORT AGAINST THE PLAINTIFF, WHICH IS PROOF THE DEFENDANT MAILROOM OFFICER R. McCRACKED 1550ED THIS TIER 3 MISBEHAVIOR PEPERT AGRIPST THE PLAIDING IN RETALIATION FOR HIS PORSUIT OF A GRIEVANCE AGAINST HER

12* THE NEW YORK STATE DEPARTMENT OF CORFECTIONS MAIL CENSORSHIP REGULATION, NEW YORK COMP. CODES RULES AND REGULATIONS TITLE 7 PART 720.4 (GXI) 15 UNCONSTITUTIONAL AND VIOLATED THE PLAINTIFF'S FIRST AMENOMENT FREEDOM OF SPEECH RIGHT AND FOURTEEPTH AMENDMENT DUE PROCESS RIGHT UNDER THE U.S. CONSTITUTION. THE DEFENDANTS SOUTHPORT MAILROOM OFFICER R. MCCRACKEN, SOUTHPORT SUPERINTENDENT DAVID NAPOLL AND COMMISSIONER BRIAN FISCHER'S COMPLIANCE WITH THIS UNCONSTITUTIONAL MAIL CEPSORSHIP REGULATION (NYCCR, TITLE 7 , 720.4(c)(i)) PRODUCED DISASTROUS CONSEQUENCES FOR THE PLAINTIFF AND WAS A SUBSTANTIAL FACTOR IN PRODUCING THE PLAIDTIFF INJURIES WHICH WAS A TOTAL OF 14 MONTHS IN THE SECURITY HOUSING UNIT (S.H.V.) WHICH IS AN ENUIROPMENT WHERE THE PLAINTIFF WILL BE LOCKED IN A CEU 24 HOURS A DAY AND THE PLAIMTIFF WILL BE FORCED INTO AN ENTROWMENT (5.H.U.) THAT CAUSES SEPSORY DEPRIVATION WHICH RESULTS IN EXTREME ANXIETY, HALWCINATIONS, BIZARRE THOUGHTS DEPRESSION, ANTI-SOCIAL BEHAVIOR, SIGNIFICANT PSYCHOLOGICAL DISTRESS, SYMPTOMS OF SCHIZOPHREDIA, DEPRIVATION OF STIMULI WHICH INDUCES REGRESSION BY DEPRIJING THE PLAINTIFF'S MIND OF CONTACT WITH AN WHER WORLD AND THUS FORCING IT IN UPON ITSELF, WHICH CAN CAUSE THE PLAINTIFF'S PERSONAUTY TO DISINTEGRATE.

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- 13th This is the Type of Environment (S.H.U.) And Mental Mind Breaking Problems that the Plaintiff Will Be Subjected to For the Next I'M Months Due to the Defendants Southport Superintendent David Nable, Southport Mailroom officer R. McCracked, commissioner Brian Fischer And Hearing officer J. Esgrow Failure to provide the Plaintiff With the Minimum Mail censorship Due Process Procedural Safeguards And Their (Defendants) Compliance With the Unconstitutional New York State Department of Cottectials Mail Censorship Regulation, New York comp.
- 14" NEW YORK STATE DEPARTMENT OF CORRECTIONS MAIL CENSORSHIP REGULATION, NEW YORK COMP. CODES RULES REGULATIONS, TITLE 7 PART 720.4 (GXI) STATES 8
- * WHEN INCOMING CORRESPONDENCE IS WITHHELD BY THE DESIGNATED STAFF MEMBER, NOTIFICATION SHALL BE SENT TO THE SENDER AND THE INTENDED CORRESPONDENT OF THE ACTION TAKEN AND THE REASONS THEREFORE, UNLESS DOING SO WOULD INTERFERE WITH AN ONGOING INVESTIGATION.

15. NEW YORK COMP. CODES, RULES, REGULATIONS, TITLE 7 PART 720.4(GXI) DOES NOT DEFIRE THIS PHRASE "UNLESS DOING SO WOULD INVERFERE WITH AN ONGOING INESTRANGINOR DOES IT OTHERWISE PROVIDE SPECIFIC GUIDEUPES FOR WHED MAIL CAN BE CENSORED, AND AN INVESTIGATION CONDUCTED REGARDING THE CENSORSHIP. WITHOUT GUIDAPEE, PRISON OFFICIALS WOULD BE PROVIDED WITH COMPLETE DISCRETTOD TO CENSOR MAIL. NOW YORK COMP. CODES, RULES, REGULATORS, TITLE 7 PART 720,4(6X1) IS NOT NARROWLY TRILORED TO MEET THE ARTICULATED GOVERNMENTAL INTEREST HOOWED WHICH VIOLATES THE FIRST AMEDDMENT AND ALLOW FOR ALL OF THE PEFERDARTS TO VIOLATE THE PLAITIFF'S FIRST AMEDOMENT FREEDOM OF SPEECH RIGHT APP HIS BURTERITY AMEROMET DUE PROCESS RIGHT, BY FAILING TO PROVIDE THE PLAINTIFF WITH THE MINIMUM MAIL CENSORSHIP DUE PROCESS PROCEDURAL SAFEGUARDS.

NEW YORK COMP. CODES, RULES, REGULATIONS, TITLE 7 PART 720.4(GXI)
IS UNCORSTITUTIONAL BECAUSE IT IS OVERBRAD AND ALLOWS
FOR THE CENSORSHIP AND DEPRIVATION OF THE MINIMUM
MAIL CENSORSHIP DUE PROCESS PROCEDURAL SARE EVAROS
IN RELATION TO THE PLAINTIFF'S PROTECTED SPEECH.
PHRASES SHOULD BE GIVEN CONSISTENT MEANING WHEN
USED IN RELATION TO A MAIL CENSORSHIP REGULATION.
NEW YORK COMP. CODES, RULES, REGULATION, TITLE 7 PART 720.4(GXI)
IS SO VAGUE THAT A PERSON OF COMMON INTELLIGENCE MUST
NECESSARILY GUESS AT IT'S MEANING AND DIFFER AS TO
IT'S APPLICATION, VIOLATES THE FIRST ESSENTIAL OF DUE
PROCESS OF LAW.

17. New YORK COMP. CODES RUES REGULATION, TITLE 7 & 720.4(6)(1)
15 UNCONSTITUTIONAL BECAUSE IT GIVES THE DEFERDANTS
COMPLETE AND UNFETTERED DISCRETION TO CENSOR MAIL
AND ENHANCES THE PHERENT PROBLEM OF CHILLING
PROTECTED SPEECH, BECAUSE IT DOES NOT GIVE THE
AUTHOR OF THE RESECTED LETTER AN OPPORTUNITY TO

PROTEST APP CHALLERGE THE REJECTION DECISION WHILE THE PHUESTIGATION IS BEING COMPOSTED.

AN INVESTIGATION IS NOT AUTHERTIC APP COMPLETE UNLESS YOU GIVE THE AUTHOR OF THE REJECTED APP WITHHELD LETTER AN OPPORTUDITY TO CHALLENGE THE REJECTION APP WITHHOLDING OF THE LETTER AND GIVE HIS SIDE OF THE STORY.

FOR EXAMPLE, SINCE THE DEFENDANTS SOUTHBRY MAILROOM OFFICER R. McCarcker, Southbort Sureriptedoet David Mapoli And commissioner Briar Fischer Failed to Notify the Plaintiff OF THE IMPEDDING RESECTION AND WITHHOLDING OF HIS LETTER WHILE THEY INVESTIGATED THE CIRCUMSTANCES SURROUNDING THE CEPZORSHIP OF HIS LETTER BY CAUFORNIA AUTHORITIES, WHICH DEPRINED THEM OF HINIFG A COMPLETE INVESTIGATION DUE TO THE FACT THAT THEY COULD NOT POSSIBLY HAVE HAD THE FULL DETAILS SURROUPDING THE CEPSORSHIP OF THE PLAINTIFF'S LETTER, BECAUSE ALL PARTIES INDOLUED WORK NOT NOTIFIED.

IP FACT THE PLAINTIFF WAS HOT INTERVIENCED, QUESTIONED OR NOTIFIED THAT HIS LETTER WAS DEPSORED AND WITHHELD WHILE THE 50- CALLED INVESTIGATION WAS TAKING PLACE.

MENEW YORK COMP. CODES RULES REGULATED, TITLE 7 PART 720.4(GXI)

IS UNCODSTITUTIONAL BECAUSE IT FAILS TO REQUIRE

THE AID OF THE AUTHOR OF THE WITHHELD LETTER

TO PROVIDE FOR A MEADINGFUL INVESTIGATION INTO

THE DECISION TO CEPSOR AND REJECT THE LETTER.

NEW YORK COMP. CODES RULES REGULATION, TITLE 7 PART 720.4(GXI)

IS ALSO UNCOPSTITUTIONAL BECAUSE IT FAILS TO

PROVIDE FOR AN APPEAL OF THE REJECTION DECISION

TO AN IMPARTIAL THIRD PARTY PRIOR TO THE LETTER

THIS IS NECESSARY TO EPSURE THAT FUTURE
REJECTION DECISIONS ARE FAIR, AND BASED ON
APPROPRIATE FACTORS.

OF MINIMUM MAIL CENSORSHIP PROCEDURAL SAREGUARDS ARE NOT MAPDATED SOLELY BECAUSE OF THE DUE PROCESS CLAUSE OF THE DUE PROCESS CLAUSE OF THE BUT ARE PRIMARILY REQUIRED BECAUSE OF THE FIRST AMEDORAT PREE SPECCH RIGHTS THAT ARE BEING PROTECTION IT IS BECAUSE OF THE CONCERNS OUER PROTECTION THE FREEDOM OF SPEECH AND PREUENTING THE CHILLIPS OF SPEECH THAT PROCEDURAL SAREGUARDS MUST BE IN PLACE BEFORE LETTERS ARE WITHHELD OR CENSORED.

NEW YORK COMP. CODES RULES REGULATIONS, TITLE? PART 720.4 (GXI)
ALLOWED THE DEFENDANTS TO WITHHOLD THE PLAINTIFT'S
LETTER AND CHILLED HIS PROTECTED SPEECH AND WAS A
SUBSTANTIAL FACTOR IN PRODUCING THE PLAINTIFT'S INSURIES
WHICH WAS A TOTAL OF 14 MONTHS IN THE SECURITY

21". NEW YORK COMP. CODES ROLES REGULATION, TITLE 7 PART 720.4 (GXI) 15 UNCORSTITUTIONAL BECAUSE IT GIVES ALL OF THE DEFEDERATE COMPLETE DISCRETION TO CENSOR APP WITHHOLD MAIL.

FOR EXAMPLE, DURING THE PLANNIF'S TIER 3 DISCIPLINARY HEARING, THE DEFENDANT SOUTHPORT MAILROOM OFFICER R. McCAACKED NOTIFIED THE DEFENDANT HEARING OFFICER J. ESGROW , THAT NO POESTIGATION WAS EVER COPPOSTED TO PETERMINE IF THE PLAINTIFF ADD HIS COUSID TERRAIDE BRADSHAW WERE CO-DEFENDAM PRIOR TO , AND ALSO AFTER SHE WROTE THE THER 3 MISBEHAUTOR REPORT AGAINST THE PLAINTIFF WHICH BASICALLY MEADS THEIR WAS NO LOGICALL REASON FOR THE DEFERDARY SOUTHBAY MAILROOM OFFICER R. ME CANCKED TO WRITE A TIER 3 MISBEHAUIOR REPORT AGRIPST THE PLAINTIFF FOR ROLE# 113.27, AND THEIR WAS ALSO NO LOGICAL PERSON TO WITHHOLD AND CENSOR THE PLAINTIFF'S LETTER.

· THE DEKEPDAMS SOUTHFORT MAILROOM OFFICER R. McChaques, SOUTHBORT SUPERIMEDENT. DAUID NAPOU AND COMMISSIONER BRIAN FISCHER "USED" NEW YORK COMP. CODES ROLES REGULATION, TITLE 7 PART 720.4 (GXI), AS AN EXCUSE TO CEPSOR THE PLAIPTIFF'S PROTECTED SPEECH AND WAS A SUBSTADTIAL FRODOR IN PRODUCING THE PLAIDARPES INJURIES WHICH WAS A TOTAL OF 14 MODING IP THE SECURITY HOUSING WARS (S.H.U.).

B. THE NEW YORK STATE CORRECTION LAW, SECTION 45 AND NEW YORK CODES, RULES, REGULATIONS, TITLE 9 PARTS 7004.3 AND 7004.6 ARE UNCONSTITUTIONAL AND VIOLATES THE PLAINTIFFS FIRST AMEROMENT FREEDOM OF SPEECH RIGHT AND FOURTERNY AMENDMENT DUE PROCESS RIGHT UHDER THE U.S. CONSTITUTION.

THE DEFENDANTS SOUTHPORT MAILHOOM OFFICER R. McCRACKED, SOUTHPORT SUPERIPTEDENT PAULD NAPOLI APP COMMISSIONER BRIAD FISCHER'S COMPLIANCE WITH THESE WICOUSTITIONAL MAIL CENSORSHIR REGULATIONS (NYCCR, TITLE 9 & 7004.3 AM. 7004.6, COMEDIAN CAN F 45) PRODUCED DISASTROUS CONSEQUENCES FOR THE PLAINTIFF AND WAS A SUBSTRATIAL FACTOR IN PREDUCING THE PLANTIFIE OF THE SHIDURAS A TOTAL OF 14 MONTHS IN THE SECURITY HOUSING UPINS (5. H.U.)

NEW YORK STATE DEPARTMENT OF COTTECTIONS MAIL CONSORSHIP REGULATION, NEW YORK CODES RUES RESULTION, TITLE 9 PART 7004-3 STATES &

SHOULD THE CHIEF ADMINISTRATIVE OFFICER, UPON READING ANY INCOMING PRISONER CORESPONDEDCE PURSUANT TO SUBDIVISION B, DETERMINE THAT SUCH CORRESPONDENCE OR ARY POTTION THEREOF CONSTITUTES A THREAT TO THE SAFETY , SECURITY OR GOOD ORDER OF THE FROUTY OR OTHER COTTECTION FACILITY, HE SHALL RETURN THE COMESPONDENCE TO THE SENDER TOBETHER WITH A WRITTED STATEMENT SETTING FORTH THE SPECIFIC HETS AND REASONS UNDERLYING THE DETERMINATION. A COPY OF THIS WRITTED STRATEMENT SHALL BE PORHARDED TO THE INTERDED PRSHER RECIPIERT.

25. NEW YORK STATE DEPARTMENT OF CORRECTIONS MAIL CENSORSHIP REGULATION NEW YORK COPES RULES REGULATION, TITLE 9 PART 7004.6 STATES 8

SUBSEQUENT TO ANY DETERMINATION MADE PURSUANT TO THIS SECTION
THE CHIEF ADMINISTRATIVE OFFICER SHALL, UPON REMOVAL OF THE
CONTRABAND CONTAINED IN THE CORRESPONDENCE, FORWARD SUCH
CORRESPONDENCE TO THE INTENDED PUSCHER RECIPIENT, EXCEPT WHEN
SUCH ACTION MAY INTERFERE WITH ANY PENDING CRIMINAL
INVESTIGATION OF THE MATTER, THE CHIEF ADMINISTRATIVE OFFICER
SHALL GIVE WRITTEN NOTICE TO THE INTENDED PUSCHER RECIPIENT
THIS WRITTEN NOTICE SHALL INCOME 8

- (1) THE NAME OF THE SENDER
- (2) THE NATURE OF THE COMPARADO
- (3) A STATEMENT OF THE SPECIFIC FACTS AND REASONS
 UNDERLYING THE DETERMINATION.

26. New York STATE CORRECTION LAW, SECTION 45 AND NEW YORK CORES, REGULATIONS, TITLE 9 PARTS TOOM. 3 AND TOOM. 6 ARE UNCONSTITUTIONAL BECAUSE IT GIVE THE DEFENDANTS COMPLETE AND UNFETTERED DISCRECTION TO CENSOR MAIL AND ENHANCES THE INHERENT PROBLEM OF CHILLING PROTECTED SPEECH, BECAUSE THEY DO NOT GIVE A REASONABLE OFFORTUNITY FOR THE AUTHOR OF THE LETTER TO PROTEST THE RESECTION (CENSORSHIP) DECISION AND THEY DO NOT PROVIDE FOR AN APPEAL OF THE RESECTION DECISION DECISION TO AN IMPARTIAL THIRD PARTY PRIOR TO THE LETTER PENDE RETURNED. THIS IS NECESSARY TO ENSURE FAIRNESS.

27. ONCE AGAIN IT SHOWLD BE NOTED THAT, DURING THE PLAINTIFF'S TIER 3 DISCIPLIPARY HEARIDS, THE DEKENDARY SOUTHPORT MAILROOM OFFICER R. McCRACKED NOTIFIED THE DEFENDANT HEARING OFFICER J. ESGROW, THAT NO PUESTIEATION WAS EVER COMPUCTED TO DETERMINE IF THE PLAINTIFF AND COUSIN TERRAIDE BRADSHAW WERE CO-DETENDANTS, PRIOR TO, AND ALSO AFTER SHE WROTE THE TIER 3 MISSEHAUIOR REPORT AGRIPST THE PLAIDTIFF, WHICH PROVES THAT NEW YORK STATE CORRECTION LAW SECTION 45, NEW YORK COPES RULES REGULATIONS, TITLE 7 PART 720.4 (EXI) AND NEW YORK TODES RULES REGULATIONS, TITLE 9 PARTS 7004.3 AND 7004.6 CAN AND WAS USED AS AN EXCUSE BY PRISON OFFICIALS, HOWDING DEKENDANTS MAILROOM OFFICER R. McCRACKEN, SUPERINDER DAVID NAPOCI AND COMMISSIONER BRIAD FISCHER, TO CENSOR, WITHHOLD AND DESTROY MAIL "ON THE SPOT" AND FAIL TO PROVIDE THE PURIPHER WITH THE MIPHOM MAIL CENSORSHIP DUE PROCESS PROCEDURAL SAFEGUARDS AND WAS A SUBSTALMAL FACTOR IN PRODUCINE THE PLAIMARE'S INJURIES WHICH WAS A TOTAL OF 14 MOPTHS IN THE SECURITY HOUSING UDING (S.H.U.).

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18. NEW YORK STATE DEPARTMENT OF CORRECTIONS DIRECTIVE 4040, NEW YORK CODES, RULES, REGULATIONS, TITLE 7 PARTS 701 AND 702, AND NEW YORK STATE CORRECTION LAW, SECTIONS 138 APD 139, ARE UNCOPSTITUTIOPAL AND ARE DEFICIENT UPDER THE MINIMUM MAIL CENSORSHIP DUE Process PROCEDURAL SAFEGUARDS. NEW YORK STATE DEPARTMENT OF CORRECTIONS DIRECTIVE 4040, NEW YORK CODES, RULES, REGULATIONS, TITLE 7 PARTS TO I APD TOZ, AND NEW YORK STATE CORRECTION LAW, SECTIONS 138 AND 139 15 A GENERAL GRIENAPCE PROCEDURE UPRELATED TO THE MAIL CENSORSHIP REGULATIONS. THE PURPOSE OF THE GRIEURICE PROCEDURE IS TO PROVIDE PMATES WITH A METHOD OF PRESEPTIFE COMPLAINTS WHICH "RELATE TO APY ASPECT OF INSTITUTIONAL LIFE". IT MAY CONCERD DEPARTMENTAL OR LOCAL PSTITUTIONAL POLICIES, Procedures, RUES AND RESULTIONS, OR THE APPLICATION OF ANY OF THESE TO THE GRIEURIST. AS AD WITTAL OBSERVATION, IT IS CLEAR THAT IF AD PMATE IS HEVER NOTIFIED THAT A LETTER HAS BEEN REJECTED, HE WOULD HOT BE ABLE TO CHAUENGE THE DECISION THROUGH A GRIEURACE PROCEDURE. HOE NEW YORK STATE DEPARTMENT OF CORRECTIONS, DIRECTIVE 4040, VEW YORK CODES, RULES, REGULATION, TITLE 7 PARTS 701 AND 702, UP NEW YORK STATE CORRECTION LAW, SECTIONS 138 AND 139 DES NOT ADDRESS THE HEED FOR NOTIFYING THE AUTHOR OF REJECTION NO ARE DEFICIENT UPDER THE MINIMUM MAIL CENSORSHIP DUE PROCESS

OCEDURAL SAREGUARDS AND ARE UPCOPSTITUTIOPAL

30. NEW YORK STATE DEPARTMENT OF CORRECTIONS PIRECTIVE 4040,
NEW YORK CODES, RULES, REGULATIONS, TITLE 7 PARTS 701 AND 702,
AND NEW YORK STATE CORRECTION LAW, SECTIONS 138 AND 139,
ARE RULES, REGULATIONS AND LAWS RELEVANT TO AND FOR
THE GRIEUANCE PROGRAM.

THEREFORE, AN AUTHOR OF A LETTER WHO WISHES TO CHALLENGE A RESECTION AND THE WITHHOLDING OF A LETTER IS UNABLE TO UTILIZE THIS MECHANISM.

NEW YORK STATE DEPARTMENT OF CORRECTIONS DIRECTIVE HOTO, NEW YORK CODES, RULES, REGULATIONS, TITLE 7 PARTS 701 AND 702, AND NEW YORK STATE COMECTION LAW, SECTION 138 AND 139, FAILS TO PROVIDE FOR THE MINIMUM MAIL CENSORSHIP DUE PROCESS PROCEDURAL SAREGUARDS AND IT ALLOWS FOR THE MAIL CENSORSHIP TO OCCUR AND IT ALLOWS FOR THE LETTER TO BE RETURNED TO THE SEMBER, WITHHELD, OR DESTROYED BEFORE THE GRIEVANCE WOULD BE RESOLVED OR EVEN FILED.

THEN YORK CODES RULES RESULATION, TITLE 7 PART 720.4(6)(1)

DOES NOT REQUIRE THAT A LETTER BE SAVED PENDING

Griedrice Procedures, rather it Andrs Prison officials

TO. MAKE Unilateral Decision to return A letter

TO THE SEMPER, WHINHOLD THE LETTER, OR DESTROY

THE LETTER, APPARENTLY ON THE SPOT.

AS A RESULT, THE GRIENAPCE PROCEDURE (DIRECTIVE 4040, NYCRR TIME 7 & 701, 702 AND COMECTION LAW & 138, 139) ARE HADERUATE BECAUSE THEY DO NOT PROVENT UPONSTIFIED CENSORSHIP.

32. PRISON OFFICIALS (DEFENDANTS) CARRY THE BURDED OF JUSTIFYING

A MAIL CENSONSHIP DECISION, SO A POST REJECTION GRIGHANCE

PROCEDURE DOES NOT ADEQUATELY ADDRESS THE THREAT OF

THE ARBITRARY SUPPRESSION OF SPEECH AND PLACES A

BURDEN ON THE PLAINMEN, WHICH IS NOT HIS TO CARRY.

THE PLAINTIFF HAD A REASONABLE EXPECTATION THAT HIS

LETTER PATED NOVEMBER TO ZOOT, TO A CAUKORNIA PRISON

OFFICIAL REDUSTING INFORMATION ABOUT HIS CO-DEFENDANT

IN A CAUFORNIA CRIMIPAL CASE NOULD NOT BE USED

FOR GENERAL INVESTIGATIVE PURPOSES.

33. NEW YORK CODES RULES REGULATION, TITLE 7 PART 720.4 (EXI)

15 NOT RATIONALLY RELATED TO A LEGITIMATE AND

NEUTRAL GOVERNMENTAL OBJECTIVE, AND THIS REGULATION

15 AN EXAGGERATED RESPONSE BY PRISON OFFICIALS.

HT 15 INATPREPRIATE ON CONSTRONIONAL GROWDS, AND

IRRATIONAL TO REPHIT DRASTIC CURTALUMENT OF CONSTRONIONAL

RIGHTS IN THE NAME OF PUNISHMENT, WHILE DENTING THE

PLAINTIFF WITH A FULL OPPORTUNITY TO PURSUE HIS

APPEALS AND POST RESECTION REMEDIES.

DEFENDANTS COMMISSIONER FREDRICK LAMY, COMMISSIONER FRANCES

SULVINAL AND CHAIRMAN DANIEL STEWART ARE IN CHARGE

OF ADVISING, RECOMMENDING, PROMULGATING AND CREATING

RULES, REGULATIONS, STANDARDS, POLICY AND PROCEDURES FOR THE

DEFENDANT GOVERNOR ELIOT SPITZER AND DEFENDANT

COMMISSIONER BRIAD FISCHER FOR THE OPERATION OF THE

NEW YORK STATE CORRECTIONAL FACILITIES, WHICH ULTIMATELY

MUST BE APPROVED BY DEFENDANTS GOVERNOR ELIOT SPITZER

AND COMMISSIONER BRIAD FISCHER.

35. DERENDANTS COMMISSIONER FREDRICK LAMY COMMISSIONER FRANCES SULLIVAN AND CHAIRMAN DANIEL STEWART ARE LIABLE AND RESPONSIBLE FOR CREATING AND PROMULGATING New YORK copes RULES REGULATION, TITLE 7 PART 720-4 (GXI), NEW YORK CODES RULES REGULATIONS, TITLE 9 PARTS 7004-3 AND 7004.6, AND NEW YORK STATE CORRECTION LAW, SECTION 45 WHICH ARE ALL UPCONSTITUTIONAL, AND DEFENDANTS SOUTHPORT MAILROOM OFFICER R. McCRACKED, SUPERILHEDEN PAULD NAJOUL AND COMMISSIONER BRIAN FISCHER'S COMPLIANCE WITH New YORK CORES RUES REGULATION, TITLE 9 PARTS 7004-3 AND 7004.6, NEW YORK CODES RULES RECULATED, TITLE 7 PART 720.4(EXI) AND NEW YORK STATE COMECTIONS LAW, SECTION 45, WAS A UBSTRATIAL FROTOR IN PRODUCING THE PLAINTIFF'S INSTRIES IN WAS A TOTAL OF 14 MONTHS IP THE SECURITY JE UPIT. (S.H.U.)

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36. DEFENDANTS COMMISSIONER FREDRICK LAMY COMMISSIONER FRANCES SULLIVAD AND CHAIRMAN DANIEL STEWART ARE LIABLE AND RESPONSIBLE FOR PRODUCING THE PLAIMTHE INJURIES WHICH WAS A TOTAL OF 14 MOPTHS IN THE SECURITY HOUSING WHAS (S.H.U.) BASED ON THE FACT THAT THEY ARE UABLE AND RESPONSIBLE FOR ALLOWING FOR, NEW YORK CODES RULES RECLUMNON TITLE 7 PART 720.4(GXI), NEW YORK COPES RUES REGULATIONS TITLE 9 PARTS 7004.3 AND 7004.6 AND NEW YORK STATE COMECTION LAW, SECTION 45, TO REMAIN REGULATIONS AND LAWS OF THE NEW YORK STATE DEPARTMENT OF CONTECTIONAL SERVICES, DESPITE THEIR KNOWLEDGE THAT THESE LAWS AND REGULATIONS (NYCRR TITLE 9 5 7004.3, 7004.6 NHO COMEDIA LAW \$45) FAIL TO PROVIDE THE MINIMUM MAIL CENSORSHIP DUE PROCES PROCEDURAL SAFEGUARDS, WHICH EVABLED DEFERDANTS SOUTHBRY MAILROOM OFFICER R. MECRACKED, SUPERINDER DAUID NAPOUL AND COMMISSIONER BRIAN ESCHER TO WOLATE THE PLAINTIFF'S FIRST AMENDHENT FREEDOM OF SPEECH RIGHT AND FOURTENTH AMENOMENT DUE PROCESS RIGHT. THE DEFENDANT GOVERNOR ELION SPINZER IS ALSO LIABLE FOR THE INSURIES THAT THE PLAIMINE SUSTRIBED BASED ON THE FACT THAT HE APPROVED OF NEW YORK CODES BUES PEGULATIONS, TITLE 7 PART 720.4(GXI), NEW YORK CODES PULES FEELINTIONS, TITLE 9 PARTS 7004.3 AND 7004-6, NEW YORK CORRECTION 45, SECTION 45 AND ALLOVED THIS UPCOPSTITUTIONAL REGULATIONS AND LAWS TO REMAIN IN EFFECT, DESPIRE HIS KNOWLEDGE THAT THEY WERE UNCONSTITUTIONAL.

37. INMATES INCARCERATED IN THE SOUTHPORT CORPRECTIONAL FACILITY'S LEVEL 3 CALLERIES ARE GIVEN A TIME CUT WHICH CONSISTS OF HAVING (2/3) TWO THIRDS OF THEIR REMAINING S.H.U. (SECURITY HOUSING UNITS) TIME OUT. THE DEFENDANT SOUTHPORT SUPERIPTENDERT DAVID NAPOUL REFUSED TO MOVE THE PLAINTIFF TO A LEVEL 3 GALLERY BASED ON THE FACT THAT THE DETERPART SOUTHPORT MAILROOM OFFICER R. MCCRACKEN 155UED A TIER 3 MISBEMAULOR REPORT AGAINST THE PLAINTIFF. AT THE TIME THE TIER 3 MISBEHAUIOR REPORT WAS ISSUED AGRIPST THE PLAIDTIFF, BY THE DETERORY SOUTHPORT MAILROOM OFFICER R. MECRACKEN, THE PLAINTIFF WAS HOUSED ON A LEVEL 2 GALLERY AND WAS NUMBER ONE (I#) ON THE LEVEL 3 GALLERY WAITHE LIST. HONEVER, THE PLAINTIFF WAS NOT ALLOWED TO MOVE TO A LEVEL 3 GALLERY BASED OF THE TIER 3 MISBEHAULOR REPORT FLED AGAINST HIM, BY THE DEFENDANT SOUTHPORT MAILROOM OFFICER R. MCCARCKEN.

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ACAIPST THE THE THE TIER 3 MISBEHAVIOR REPORT WAS FILED REALPHAND IZ MONTHS
REMAINING ON HIS S.H.U. SENTENCE WHICH MEANS THAT
THE PLAINTIFF WOULD OF HAD 8 MONTHS TAKEN OFF
OF HIS S.H.U. SENTENCE IF HE WAS ON A LEVEL 3

HOWER, SINCE THE PLAINTIPF IS BEING DEHIED AN DPPORTURITY TO MOVE TO A LEVEL 3 GALLERY, HE WILL NOT RECIEVE A LOVE 3 TIME CUT, WHICH MERRYS THE PLAIDTIFF WILL HAVE TO SERVE THE ENTIRE 8 MONTHS IN THE S.H.U. THAT HOULD OF BEED TAKED OFF HIS SHU. SENTENCE BY RECIENTIFE A TIER 3 S.H.O. TIME OUT, WHICH MERNS THE PLAIDTIFF WILL HAVE TO SERVE 8 MODTHS DUE TO THE FACT THAT THE PLANTIFF RECIEVED A TIER 3 MISBEHAUIOR REPORT, WRITTED BY DEREDMIN MAILROOM OFFICER R. McCRACKED, BASED ON THE FACT THAT HIS NOVEMBER 7TH, 2007 LETTER WAS UPJUSTIFIABLY CENSORED REJECTED AND WITHHELD BY DEFENDANTS MAILROOM OFFICER R. McCRACKEL) SUPERINDER DAVID HABLI AND COMMISSIONER BRIAN FISCHER AND ALSO DUE TO THE FACT THAT THE PLAINTIFF WAS NOT PROVIDED WITH THE MIHIMUM MAIL CEPSORSHIP PROCEDURAL SAREGUARES BY ALL OF THE DEKELDANTS, WHICH WAS NEEDED IN ORDER FOR THE PLAINTIFF TO CONTEST THE CONSERSHIP DECISION

39. FROM NOVEMBER 30TH, 2007 TO DECEMBER 28TH, 2007, THE PLAINTIFF WAS INVOLVED IN A TIER 3 DISCIPLIPARY HEARING TO CONTEST DEPARTMENT OF CORRECTIONS RULES OF CONDUCT, RULES # 113.27 AND #180.11. ON DECEMBER 28th, 2007, THE PLAINTIFF WAS FOUND GUILTY OF THE TIER 3 MISBEHAUIDR REPORT WRITTEN BY DEFERDANT SOUTHPORT MAILROOM OFFICER R. MCCRACKEN. THE PLAINTIFF WAS FOUND GUILTY OF RULES# 113.27 AND # 180.11 BY DEFENDANT HEARING OFFICER J. ESGROW WHO WAS BIASED AGAINST THE PLAINTIFF THROUGHOUT THE TIER 3 DISCIPLINARY HEARING. AN IMPARTIAL DECISIONMAKER IS A FUNDAMENTAL REQUIREMENT FOR PROVIDING MINIMUM MAIL CENSORSHIP DUE PROCESS PROCEDURAL SAFEGUARDS. THE DEFENDANT HEARING OFFICER J. ESGROW REFUSED TO INVESTIGATE AND TRUTHFULLY RESEARCH THE PLAINTIFF'S DOWNENTARY EVIDENCE THAT HIS COUSID TERRAINE BRADSHAW WAS A CO-DEFENDANT IN THE PLAINTIFF'S CALIFORDIA CRIMINAL CASE. THE DEFENDANT HEARING OFFICER J. ESGROW OBJECTED TO EVERY QUESTION THAT THE PLAINTIFF ATTEMPTED TO ASK THE DEFENDANT SOUTHPORT MAILROOM OFFICER R-MCCRACKED, WHICH liouries THE PLAIPTIFF'S FOURTEENTH AMEDOMENT RIGHT. THE DEFENDANT STUTHPORT MAILROOM OFFICER NOTIFIED THE DEFENDANT HEARING OFFICER J. ESGROW, THAT I NO INVESTIGATION WAS EVER CONDUCTED TO DETERMINE IF THE PLAINTIFF HS COUSIP TERRAINE BRADSHAW WERE CO-DEFENDANTS, WHICH WS THAT TITLE 7 & 720.4(CXI) CAN BE USED AS AN EXCUSE TO CENSOR MAIL!

41 ON DECEMBER 28th 2007, THE DEKENDANT HEARING OFFICER J. ESGROW IMPOSED A G MONTH S.H.U. (SECURITY HOUSIPE UNIT) PENALTY ON THE PLAINTIFF WHICH MEADS THE PLAIDTIFF WILL HAVE TO SERVE A TOTAL OF 14 MODTHS (6 MON. + 8 MOD.) IN THE S.H.U., IF YOU TAKE INTO ACCOUNT THE FACT THAT THE PLAIFTIFF WOULD OF HAD 8 MOPTHS SUBTRACTED. FROM HIS SHU. RELEASE PATE IF HE WAS ALLOWED AN OPPORTUNITY TO MOVE TO A LEVEL 3 GALLERY WHICH THE PLAINTIFF WAS NOT ALLOWED AN OPPORTUNITY TO DO, DUE TO THE FACT THAT THE PLAIDTIFF WAS ISSUED A TIER 3 MISSEHAUIDR REPORT BY DEFERDANT SOUTHPERT MAILROOM OFFICER R. Mc CRACKED. THE DEKEDDADYS SCUTHPORT MAILROOM OFFICER R. McCRACKED SCUTHFORT SUPERIFFEDERY DAVID NAPOLI, COMMISSIONER BRIAN FISCHER AND HEARING OFFICER J. ESGROW FAILURE TO GIVE NOTICE TO THE PLAINTIFF THAT HIS LETTER WAS CENSORED, SEIZED AND WITHHELD AND ALL OF THE DEFENDANTS FAILURE TO PROVIDE THE PLAIPTIFF WITH THE MIDIMUM MAIL CENSORSHIP DUE PROCESS PROCEDURAL SAFEGUARDS PRODUCED DISASTROUS CONSEQUENCES FOR THE PLAINTIFF, AND WAS A SUBSTRATTAL FACTOR IN PRODUCINE THE PLAINTIFF'S INJURIES WHICH WAS A TOTAL OF 14 MOPTHS IP THE SECURITY HOUSING UPPES (S. H. U.)

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* CASE 6:08-cv-06029-CJS-MURL DOCUMPANT FILED 01/16/08 Page PREE 29 0F 44 43" DEFENDANT COMMISSIONER BRIAN FISCHER IS IN CHARGE OF THE DAILY OPERATIONS OF THE NEW YORK STATE DEPARTMENT OF CORRECTIONS SERVICES; HIS FAILURE TO GIVE EXPLICIT DESTRUCTIONS AS TO THE MINIMUM MAIL CEPSORSHIP DUE PROTESS PROTEDURAL SAKEBUARDS ENTINED TO THE PLAIDTIFF DURNE THE HUESTIGHTION INTO HIS NOVEMBER 7th, 2007 LETTER TO CAMEDRUIA AUTHORITIES AND HIS ENFORCEMENT OF THE UNCONSTRUTIONAL MAIL CENSORSHIP REGULATION, NEW YORK COMP. CODES RULES REGULATION TITLE 7 PART 720.4 (G)(1) MAKE HIM LIABLE FOR THE INJURIES THE PLAINTIFF SUSTAINED, WHICH WAS A TOTAL OF 14 MOPTHS IN THE SECURITY HOUSING UNTH (S.H.U.). · DEFENDANT SOUTHBRY SUPERINTODER DAUID NAPOLI IS IN CHARGE OF THE DAY TO DAY OPERATIONS AT THE SOUTHPORT CONTECTIONAL FACILITY AND FOR THE TRAINING AND COPPOST OF HIS HER OFFICERS, HIS FAILURE TO GIVE EXPLICIT DETENDING TO THE DETENDING MAILROOM OFFICER R. Mc CRACKED, AS TO THE MINIMOM MAIL ENSORSHIP WE PROCESS PROCEDURAL SAFEGUARDS TO BE SUDJED 12 HOTIFYING THE PLAINTIFF THAT HIS LETTER IAS CENSORED AND BEING WITHHELD MAKES HIM LABLE THE PUTURES THE PLAIDART SUSTAINED, WHICH WAS A TAL OF 14 MODALS ID THE SECURITY HOUSING UNIT. FEHDAPT COMMISSIOPER BRIAD FISCHER IMPLEMENTS POLICIES REGARDIAG E TREATMENT OF IPMATES IPCARCERATED IP THE PED YORK STATE EPARAMENT OF CONFECTIONAL SENICES.

PLAINTIFF'S LIST OF CLAIMS

- 1. THE PLAINTIFF STATES A FIRST AMENDMENT FREEDOM OF SPEECH CLAIM BASED ON THE DEFENDANTS MAILROOM DFFICER R-MCCRACKEN, SUPERIDTENDENT DAVID NAPOLI, COMMISSIONER BRIAN FISCHER AND HEARING OFFICER J. ESGROW FAILURE TO PROVIDE THE PLAINTIFF WITH THE MINIMUM MAIL CEPSORSHIP DUE PROCESS PROCEDURAL SAFEGUARDS AND THEIR COMPLIANCE WITH AN UNCONSTITUTIONAL MAIL CENSORSHIP REGULATION (NEW YORK COMP. CODES RULES REGULATION), TITLE 7 PART 720-4 (GXI)) AND ALSO BASED ON THE INADEQUATE GRIEVANCE PROCEDURE (DIRECTIVE 4040) THAT THE PLAINTIFF WAS FORCED TO USE, ALL OF WHICH WAS A SUBSTRUTIAL FACTOR IN PRODUCING THE PLAIDTIFF'S INJURIES WHICH WAS A TOTAL OF 14 MONTHS IN THE SECURITY HOUSING UNITE (S.H.U.).
- 2# THE PLAINTIFF STATES A FIRST AMENDMENT RETALIATION CLAIM BASED ON DEFENDANT MAILROOM OFFICER

 R. Mc Cracken Failure to Provide the Plaintiff With the Minimum Mail Censorship due Process Procedural Safeguards in Retaliation for the Plaintiff's Pursuit of a Grieuance And Complaint Against Her And the Entire Mailroom Stafe.

THE PLAINTIFF STATES A FIRST AMENDMENT ACCESS

TO THE COURTS CLAIM BASED ON THE DEFENDANTS

MITILROOM OFFICER R. McCracked, SUPERINTENDENT

DAVID NAPOLI, COMMISSIONER BRIAN FISCHER AND

HEARING OFFICER J. ESGROW FAILURE TO PROVIDE

THE PLAINTIFF WITH THE MINIMUM MAIL CENSORSHIP

DUE PROCESS PROCEDURAL SAFEGUARDS WHICH

DEPRIVED THE PLAINTIFF OF RECIEVING INFORMATION

ABOUT HIS CO-DEFENDANT, BOTH OF WHOM WERE

PROCEEDING PROPER IN THEIR CALIFORNIA CRIMINAL

CASE, WHICH HINDERED AND HURT THE PLAINTIFF'S

ABILITY TO PURSUE AND LITIGATE HIS CALIFORNIA

CRIMINAL CASE, PROPER.

4. THE PLAINTIFF STATES A SIXTH AMENDMENT RIGHT

TO COUNSEL CLAIM BASED ON THE FACT THAT THE

DEFENDATS MAILROOM OFFICER R. MCCRACKEN,

SUPERINTENDENT DAVID NAPOLI, COMMISSIONER BRIAN

FISCHER AND HEARING OFFICER J. ESGROW

FAILURE TO PROVIDE THE PLAINTIFF WITH THE

MINIMUM MAIL CENSORSHIP DUE PROCESS PROCEDURAL

SAFEGUARDS WHICH DEPRIVED THE PLAINTIFF OF

RECIEVING INFORMATION ABOUT HIS CO-DEFENDANT,

BOTH OF WHOM WERE PROCEEDING PROPER (PROSE) IN

THEIR CAUKGRUIA CRIMINAL CASE, WHICH HINDERED

AND HURT THE PLAINTIFF ABILITY TO PURSUE AND

LITIGATE HIS CALIFORNIA CRIMINAL CASE, PROPER.

5. THE PLAINTIFF STATES A EIGHT AMENDMENT CRUEL AND UNUSUAL PUNISHMENT CLAIM BASED ON DEFENDANTS MAILROOM OFFICER R. MCCRACKEN, SUPERINTENDENT DAVID NAPOLI, COMMISSIONER BRIAN FISCHER AND HEARING OFFICER J. ESGROW INTENTIONAL FAILURE TO CONDUCT AN COMPLETE INVESTIGATION INTO WHETHER THE PLAINTIFF AND HIS COUSIN TERRAINE BRADSHAW WERE CO-DEFENDANTS, WHICH ALL OF THE DEFENDANTS KNEW WOULD CREATE A SUBSTANTIAL RISK OF SERIOUS HARM TO THE PLAINTIFF AND ALSO BASED ON ALL OF THE DEFENDANTS INTENTIONAL FAILURE TO PROVIDE THE PLAIDTIFF WITH THE MINIMUM MAIL CENSORSHIP DUE PROCESS PROCEDURAL SAFEGUARDS, ALL OF WHICH WAS A SUBSTANTIAL FACTOR IN PRODUCING THE PLAINTIFF'S INJURIES WHICH WAS A TOTAL OF 14 MONTHS 12) THE SECURITY HOUSING UNITS (S.H.U.)

6. THE PLAINTIFF STATES A FOURTEENTH AMENDMENT DUE PROCESS CLAIM BASED ON DEFENDANTS MAILROOM OFFICER R. McCRACKED, SUPERIPTEDENT DAVID NAPOLI, COMMISSIONER BRIAD FISCHER AND HEARING OFFICER ESGROW, FAILURE TO PROVIDE THE PLAIDTIFF WITH THE MINIMUM MAIL CENSORSHIP WE PROCESS PROCEDURAL SAFEGUARDS AND THEIR COMPURICE WITH AN UNCONSTITUTIONAL MAIL CENSORSHIP REGULATION (NEW YORK COMP. CODES RULES REGULATION), TITLE 7 PART 720.4 (GXI), AND ALSO BASED ON THE IN ADEQUATE GRIENADCE PROCEDURE (DIRECTIVE 4040) THAT THE PLAIDTIFF WAS FORCED TO USE, AND ALL OF THE DEFENDANTS PREMIONAL FAILURE TO CONDUCT AN COMPLETE PUESTIGATION INTO WHETHER THE PLAINTIFF AND HIS COUSIF TERRAIDE BRADSHAW WERE CO-DEFERDANTS, WHICH ALL OF THE DERENPARTS KHEN WOULD CREATE A SUBSTRATIAL RISK OF SERIOUS HARM TO THE PLAIDTIFF, ALL OF THE ABOVE FACTORS WERE A SUBSTANTIAL FACTOR IN PRODUCING THE PLAINTIFF'S INSURIES WAS A TOTAL OF 14 MODTHS IP THE SECURITY HOUSING UPITS (s. H. U.).

THE PLAINTIFF STATES THAT NEW YORK CODES RULES

RECULATION, TITLE TO PART TOO. 4(GXI) IS UNCONSTITUTIONAL

DIE TO THE FACT THAT IT FAILS TO PROVIDE THE

PLAINTIFF WITH THE MINIMUM MAIL CENSORSHIP DUE PROCESS

PROCEDURAL SAFEGUARDS AND ALL OF THE EIGHT

DEFENDANTS APPROVAL AND COMPLIANCE WITH THIS

REGULATION WAS A SUBSTANTIAL FACTOR IN PRODUCING

THE PLAINTIFF INSURIES WHICH WAS A TOTAL OF

14 MONTHS IN THE SECURITY HOUSING UNITS. (SHU)

8. THE PLAINTIFF STATES THAT NEW YORK CODES RULES
REGULATION, TITLE 9 PARTS 7004.3 AND 7004.6 ARE
UNCONSTRUCTIONAL DUE TO THE FACT THAT THEY FAIL
TO PROVIDE THE PLAINTIFF WITH THE MINIMUM MAIL
CENSORSHIP DUE PROCESS PROCEDERAL SAFEGUARDS AND ALL
OF THE EIGHT DEFENDANTS APPROVAL AND COMPURANCE
WITH THIS REGULATION WAS A SUBSTRUCTIAL FROTOR
IN PRODUCING THE PLAINTIPP'S INSURIES WHICH WAS
A TOTAL OF 14 MONTHS IN THE SECURITY HOUSING
UNITS. (S.H.U.)

- 9th. THE PLAINTIFF STATES THAT NEW YORK STATE CORRECTION LAW, SECTION 45 15 UNCONSTITUTIONAL DUE TO THE FACT THAT IT FAILS TO PROJUDE THE PLAINTIFF WITH THE MINIMUM MAIL CENSORSHIP DUE PROCESS PROCEDURAL SAFEGUARDS AND ALL OF THE EIGHT DETENDANTS APPROVAL AND COMPLIANCE WITH THIS STATE LAW WAS A SUBSTRUSTIAL FACTOR IN PRODUCED THE PLAINTIFP'S INTURIES WHICH WAS A TOTAL OF IM MONTHS IN THE SECURITY HOUSING UNITS. (5.N.L.)
- 10# THE PLAID-TIFF STRYES THAT NEW YORK STRYE DEPARTMENT OF CORRECTIONS, DIRECTIVE 4040, 13 UN CONSTITUTIONAL DUE TO THE FACT THAT IT IS DEFICIENT UNDER THE MINIMUM MAIL CENSORSHIP DUE PROCESS:
 PROCEDURAL SAKEGUARDS AND UIDLATES THE FIRST AMENDMENT FREEDOM OF SPEECH AND FOURTEENTM AMENDMENT DUE PROCESS.
- 11th THE PURINTIFE STRIES THAT NEW YORK CORES RUSS
 REGULATIONS, TITLE 7 PART 701 AND 702 15

 WHICH STITUTIONAL DUE TO THE PACT THAT IT IS

 DEFICIENT UNDER THE MINIMUM MAIL CONSORTHIP

 PUE PROCESS PROCEDURAL SARE GUARDS AND UNDERSES
 THE FIRST AMENDMENT FREEDOM OF SPEECH AND

 FOURTERDAY AMENDMENT DUE PROCESS CLAUSE.

12* THE PLAINTIFF STATES THAT NEW YORK STATE CORRECTION

LAW , SECTION 138 AND 139 IS UNCONSTITUTIONAL DUE

TO THE FACT THAT IT IS DEFICIENT UNDER THE

MINIMUM MAIL CENSORSHIP DUE PROCESS PROCEBURAL

SAFEGUARDS AND VIOLATES THE FIRST AMENOMENT FREEDOM

OF SPEECH AND FOURTERATH AMENOMENT DUE PROCESS

CLAUSE.

* DATED & JANUARY 11TH, 2008

SINCERELY,

Ondré Bruth ANDRÉ SMITH, PROSE DIN#8 03AG5G5

SOUTHPORT CORRECTIONAL FACILITY
1.0. BOX 2000

PINE CITY, NEW YORK 14871

PRAYER FOR RELIEF

THE PLAINTIFF RESPECTFULLY PRAYS THAT THIS COURT ENTER JUDGEMENT GRANTING &

1. THE PLAINTIFF COMPENSATORY DAMAGES IN THE AMOUNT OF \$420,000 FOR THE PAIN, SUFFERING AND EMOTIONAL DISTRESS CAUSED TO THE PLANHTHE BY ALL EIGHT DEFENDANTS, BASED ON THE DEFENDANTS FAILURE TO PROVIDE THE PLAIPTIFF WITH THE MIPIMUM MAIL CENSORSHIP DUE PROCESS PROCEDURAL SAFEGUARDS AND THEIR COMPLIANCE WITH UNCOPSTITUTIOPAL MAIL CEPSORSHIP REGULATIONS (NEW YORK CODES RUES REGULATIONS, TITLE T PART 720.4(GXI), THRE 9 PART 7004.3 AND PART 7004.6) AND ALSO BASED ON THE IMADEQUATE GRIENADCE PROCEDURE (DIRECTIVE YOYO, NEW YORK CODES, RULES, REGULATIONS, TITLE T PARTS TOI AND TOZ) THAT THE PLAINTIFF WAS FORCED TO USE, ALL OF WHICH WAS SUBSTAINTAL FACTORS IN PRODUCING THE PLAINTIFF'S INJURIES WHICH WAS A TOTAL OF 14 MOPHS ID THE SECURARY HOUSING UPAS WHICH EQUALS 420 DAYS IN THE SECURITY HOUSIE UNITS THE PLAINTIFF WOULD LIKE TO BE COMPENSATED \$1,000 FOR EACH DAY (420) THAT HE IS FORCED TO REMAIN IN THE SEWRITY HOUSING UPITS DUE TO THE DEFERORDIS MISCONDUCT, FOR A GRAND TOTAL OF \$420,000.

2#. THE PLAINTIFF PUNITIVE DAMAGES IN THE AMOUNT OF \$ 580,000 DUE TO THE DELIBERATE |NDIFFERENCE, RECKLESS DISREGARD AND CALLOUS PHOIFFERENCE TO THE PLAINTIFF'S RIGHTS BY ALL EIGHT DEFEDORUTS, BASED ON THEIR FAILURE TO PROVIDE THE PLAINTIFF WITH THE MINIMUM MAIL CENSORSHIP DUE PROCESS PROCEDURAL SAFEGUARDS AND THEIR COMPLIANCE WITH AN UNCONSTITUTIONAL MAIL CENSORSHIP REGULATION (NEW YORK COMP. COPES RUES REGULATIONS, TITLE 7 PART 720.4 (6X1), TITLE 9 PARTS 7004.3 AND 7004.6) APD ALSO BASED OF THE PADEGUATE GRIEVANCE PROCEDURE (DIRECTIVE 4040, NEW YORK CORES RULES REGULATION, TITLE 7 PART 701 AND 702) THAT THE PLAINTIFF WAS FORCED TO USE, AND ALL OF THE DEFENDANTS INTENTIONAL FAIWRE TO CONDUCT A COMPLETE INVESTIGATION INTO WHETHER THE PLAINTIFF AND HIS COUSIN TERRAINE GRADSHAW WERE CO-DEFENDING, WHICH ALL OF THE DERENDANTS KNEW WOULD CREATE A SUBSTRIPTIAL RISK OF SERIOUS HARM TO THE PURIPHIE, AND THE DEFERDANTS MAILROOM OFFICER R-MCCRACKED'S RETALIATORY ACTIONS ALL OF THE ABOVE FRETORS WERE A SUBSTRUMAL FRETORS IN PRODUCING THE PLANMIPE'S NAS A TOTAL OF 14 MONTHS 12 THE SECURITY HOUSING UNITS (S.H.U.).

- 3. A DECLARATION THAT THE ACTS AND OMISSIONS DESCRIBED HEREIN VIOLATED THE PLAINTIFF'S RIGHTS UPDER THE CONSTITUTION AND LAWS OF THE UNITED STATES.
 - 4. A JURY TRIAL ON ALL ISSUES AND CLAIMS
 TRIABLE BY JURY.
 - 5th. THE PLAIPTIFF COSTS IP THIS SUIT.
 - 6. THE PLAINTIFF INJUDICTIVE RELIEF AND ANY ADDITIONAL RELIEF THIS COURT DEEMS JUST, PROPER, AND EQUITABLE.

* DATED & JANUARY 11TH, 2008

SIPCERELY

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